

USDS SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 10-29-10

MARTIN CLEARWATER & BELL LLP

COUNSELORS AT LAW

220 EAST 42ND STREET, NEW YORK, NY 10017-5842

TELEPHONE (212) 697-3122 FACSIMILE (212) 949-7054

www.mcblaw.com

STACIE L. YOUNG
PARTNERDIRECT DIAL: (212) 916-0957
E-MAIL: youngs@mcblaw.com

MEMO ENDORSED

VIA HAND DELIVERY

Honorable P. Kevin Castel
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Employers Insurance Company of Wausau v. Munich Reinsurance America, Inc.
 Civil Action No.: 10 CV 3558 (PKC)
 MCB File No.: 70-81952

Dear Judge Castel:

We represent plaintiff, Employers Insurance Company of Wausau ("Wausau"), in the above-referenced action. In accordance with the Court's Pretrial Conference Order of October 14, 2010, establishing the summary judgment briefing schedule, we, having consulted with counsel for defendant Munich Reinsurance America, Inc. ("Munich Re"), hereby respectfully request that the Court advise the manner in which it would like the parties to handle certain documentary evidence which will be submitted in support of Wausau's motion and Munich Re's cross-motion.

Specifically, the Court has directed that Wausau file its Notice of Motion, Memorandum of Law, Local Civil Rule 56.1 Statement of Facts and any declaration(s) in support thereof, by Friday, October 29, 2010. Having undertaken the preparation of these items over the past week, Wausau has selected various evidentiary documents it wishes to submit with its declaration in support of its motion. Most of the items are "public" information and can be filed and made part of the public record in this matter without concern. However, some of these items are "non-public" in nature – having been shared with Wausau by Munich Re only as part of the claim adjustment process.

OCT 29 2010
 No document may
 be submitted to the Court or the
 summary judgment motion which is not part of the
 October 28, 2010 public record
 unless the parties satisfy
 the standard in *Lugosch v.
 Pyramid*, 435 F.3d 110, 119-120
 (2d Cir. 2006).

SO ORDERED
 JMB/BS/05
 10-29-10

WESTCHESTER COUNTY OFFICE
 245 MAIN STREET
 WHITE PLAINS, NY 10601
 TELEPHONE (914) 328-2969
 FACSIMILE (914) 328-4056

NASSAU COUNTY OFFICE
 90 MERRICK AVENUE
 EAST MEADOW, NY 11554-1576
 TELEPHONE (516) 222-8500
 FACSIMILE (516) 222-8513

NEW JERSEY OFFICE
 744 BROAD STREET
 NEWARK, NJ 07102
 TELEPHONE (973) 735-0578
 FACSIMILE (973) 735-0584